IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISDICTION

WRIT PETITION NO.3062 OF 2005

Omprakash Hiralal Gupta ..Petitioner

Vs.

State of Maharashtra & Ors. ..Respondents

...

Mr.M.D.Pokale for Petitioner
Mr.A.H.Palekar AGP for Respondent no.1
Mr.G.D.Utangale for Respondent no.2
Mr.Bharat Choudhary with Ms.Lata Wadhwani for Respondent nos. 5 and 6

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CORAM : B.H.MARLAPALLE,J.

DATE : MAY 4,2005

P.C.:

1. Heard Mr.Pokale, the learned counsel for the Petitioner who is aggrieved by the orders passed by the Deputy Collector on 21.2.2005 and the Administrator and Divisional Commissioner Konkan Division on 29.3.2005. As per the order passed by the Deputy Collector and the competent authority for slum rehabilitation scheme, the Petitioner has been given alternative accommodation and inturn, has been asked to vacate the present tenement in his possession. In the hearing that had taken place before the Deputy Collector, the Petitioner appeared

through an advocate and questioned the power of the Collector to decide the case. The Collector referred to the Govt. Resolution dated 3.10.2003 and also amended Govt. Resolution dated 21.9.2004 and held that the objection raised to his power was unsustainable. The Collector also noted that though the Petitioner was found to be eligible to be a member of Nalanda Housing Society (Proposed), in view of the application submitted by the developer along with petitioner's consent application, the builder's request was allowed and the Petitioner was held to be eligible to become member of Vishwas Co-Operative Housing Society in which Block No. 608 has been allotted to the Petitioner. Under these circumstances, by the order dated 21.2.2005 he was called upon to take possession of Block No. 608 and vacate the existing structure in his possession.

2. The Administrator and Divisional Commissioner heard the Petitioner at length, perused the record as well as the order passed by the Deputy Collector and noted that subsequent Govt. Resolution dated 21.9.2004 had amended only clause no.17 onwards from the Govt. Resolution No. 3.10.2003 and clause no.14 of the Govt. Resolution dated 3.10.2003 remained unchanged and therefore, the Deputy Collector was the competent authority.

3. No interference is called for in the orders passed by the authorities below in this petition under Article 227 of the Constitution of India.

4. The petition is therefore, rejected.

[B.H.MARLAPALLE,J.]